

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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EDWARD PITRE,

18-CV-5950 (DC)

Plaintiff,

-against-

**DECLARATION OF LAUREN  
SILVER IN SUPPORT OF  
DEFENDANTS' PRE-TRIAL  
MEMORANDUM**

THE CITY OF NEW YORK, FIRE DEPARTMENT  
OF THE CITY OF NEW YORK<sup>1</sup>, JAN BORODO,  
individually, JOHN FIORENTINO individually, and  
JOSEPH M. MASTROPIETRO, individually,

Defendants.

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**Lauren F. Silver**, declares, pursuant to 28 U.S.C. § 1746 and under the penalty of perjury, that the following is true and correct:

1. I am an Assistant Corporation Counsel in the office of the Honorable Sylvia O. Hinds-Radix, Corporation Counsel of the City of New York, attorney for Defendants in the above-captioned action.
2. I respectfully submit this declaration in support of Defendants' Pre-Trial Motion.
3. Attached hereto as Exhibit "A" is an excerpt of the August 3, 2021, Deposition of Edward Pitre.

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<sup>1</sup> The Fire Department of the City of New York, as an agency of the City of New York, is not a suable entity. See Olabopo v. Gomes, 2016 U.S. Dist. LEXIS 134521, at \*9 (E.D.N.Y. September 28, 2016) (dismissing claims against FDNY because it is a non-suable entity); United States v. City of New York, 683 F.Supp.2d 225, 243 (E.D.N.Y.2010) (citing Warheit v. City of New York, No. 02 Civ. 7345 (PAC), 2006 U.S. Dist. LEXIS 58167, 2006 WL 2381871, at 13 (S.D.N.Y. Aug. 15, 2006)) (dismissing all claims against FDNY because FDNY is not suable). Accordingly, any claims against FDNY must be dismissed from this case and removed from the caption.

**WHEREFORE**, Defendants respectfully request the Court grant the portion of Defendants' Pre-Trial Motion which seeks to have certain claims dismissed, and grant any such other and further relief as the Court may deem just and proper.

Dated: New York, New York  
August 30, 2023

**HON. SYLVIA O. HINDS-RADIX**  
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By: /s/ **Lauren F. Silver**  
Lauren F. Silver  
Assistant Corporation Counsel

To: via ECF  
Plaintiff's counsel